1957. **File No.** O Suits/51

Legal Dept.

A **BRANCH**

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Subject:—

Opinions re. Suits

File No. O Suits/57

Gen. 795

526-A

C O N T E N T S

Legal Department File No. C. Suits /51

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No. SF. 126/II/17466
Office of the Director of Industries,
Old Custom House Yard, Fort,
Bombay 1, 30th May , 1951.

To

The Solicitor to Government,
Legal Department,
Bombay.

Subject: - Return of Security Deposit of M/s Kamal Uniform Clothing Co.

Reference: Your U.R. No 6652 dated 26-4-51.

Sir,

I have the honour to state that an order for stitching of uniforms for the State Transport Office for the year 1949-50 was placed by this office with M/s. Kamal Uniform Clothing Co., 26, 1st Bhatwadi, Girgaon, Bombay (vide copy of order attached). The firm deposited a sum of Rs. 5000/- with this office in the form of a Post Office Saving Bank pass book endorsed in the name of the Director of Industries and Stores Purchasing Officer, Bombay.

The Stores Office (General) of the State Transport intimated to me on 2-3-51 (vide copy of his letter enclosed) to recover from the firm a sum of Rs. 2000/- from its security deposit (Rs. 1400/- towards cost of cloth not returned by the firm plus a fine of Rs. 100/- for default and Rs. 500/- to meet emergencies) and send the amount to the State Transport Office,, objection for the return of the balance of deposit to the legal claiments if their claims are found to be in order. Action on the above State Transport letter could not be taken because a notice dated 22-2-1951 was served on me by the Bombay City Civil Court (vide copy attached) to withhold the pass book of the Post Office Saving Bank Account and the sum of Rs. 5000/- deposited by the firm with this office until further order of the Court, as a suit was filed by one, Shri Thakoredas Devidas against the firm and the plaintiff had been given the liberty, pursuant to the learned Judge's order dated 21-2-51, to attach the firm's Pass Book of Post Office Saving Bank Account in question.

It will be seen that out of the deposit amount of Rs. 5000/- from the firm, Rs. 2000/- are to be given to the State Transport Department under the terms of the contract made with the firm and the amount now payable to the firm is only Rs. 3000/- . It will, therefore, be necessary to apply to the court objecting to the attachment of Rs. 5000/- under order 21 Rule 58 of the Civil Procedure Code on the ground that the amount now payable to the firm is only Rs. 3000/-. I have therefore, to request you to instruct the Government Advocate City Civil Court to make the necessary application.

Yours faithfully,

Sd/-

Director of Industries and
Stores Purchasing Officer.

Mjr/21/6
4 Cs.

No.

Office of the Director of Industries Old Customs House Yard, Fort Bombay No. 1.

Dated the June 1951.

To

Messrs, Khandvala and Chhotabal,
Solicitors,
Lentin Chambers,
Dalal Street, Fort,
Bombay.

Subject:- City Civil Court Suit No 486 or 1951
Thakordas Devidas Vs. Messrs Kamal Uniform Clothing Company.

Sir,

I am in receipt of your letter of the 22nd May 1951 and note that the attachment is confirmed by an order of the Court

In this connection I have to state that an order for stitching of uniforms for the State Transpport Office for the year 1949-50 was placed by this office with Messrs, Kamal Uniform Clothing Company, 26, 1st Bhatwadi Girgaum, Bombay, who deposited with me a sum of Rs. 5,000/- in the form of a Post Office Savings Bank pass book duly endorsed in my name. By virtue of the provisions of section 32 of the Bombay State Road Transport Act, 1950, the benefit of the said order has become vested in the Bombay State Road Transport Corporation and I am holding the said deposit subject to the directions o the said Corporation who claim to be entitled to the sum of Rs, 2,000/- out of the said deposit of Rs. 5,000/- for the reasons stated in their letter dated the 2nd March 1951, a copy whereof is enclosed foryour information. You/ are therefore requested to write to the Bombay State Road Transport Corporation, Bombay in the matter.

Yours faithfully,

Director of Industries and Stores
Purchasing Officer.

Mjr/21/6

No. 9423

Legal Department,

Bombay Castle (Bombay No. 1), 15th June 1951

To

The Director of Industries,
Old Custom House Yard,
Fort, Bombay.

Subject:- Return of security Deposit of Messrs. Kamal Uniform clothing Company.

Sir,

With reference to your letter No. SP 126/II, dated the 6th June 1951, on the above subject, I have the honour to forward herewith draft of reply to be sent to Messrs. K Khandwala and Chhotabla, Solicitors.

Yours faithfully,

Sd/- 15/6

O.C.

Solicitor to Government.

Mjr/22/6
4 Cs.

L.D.R.I.No. 9853 dt/17-5-51

Submitted.

The Rajasthan Government have to recover certain amounts (Rs. 23,442-8-0 and Rs. 305) from the Ambica Air Lines Ltd. which is now in liquidation. That Government has already submitted its claims supported by affidavits to the Official Liquidator and has sent copies thereof to this Govt. through the Govt. of India who have requested it to take the necessary action in the matter. H.D. proposed to transfer the correspondence to the Liquidator but D.S., H.D., has requested L.D. to advise what is the correct procedure in the matter.

2. It is not understood what the Govt. of India desires this Govt. to do in this case. The calims against the Company will have to besubmitted and proved, if necessary, in accordance with the Rules made by the High Court (Cf. Rules 756-760 of the High Court Rules, Original Side). The Rajasthan Govt. has already submitted its claims and if it is called on to prove them, help of attorneys may be necessary. In that case that Govt. may beasked to engage M/s- Little and Co. who act as Solicitors to this Government.

Sd/- M.P.Rege
20/6

Mjr/22/6
4 Cs.

Office of the R.L.A.

Rajasthan Government may be informed that it will be advisable to engage the services of some local attorneys for proving the claims beforethe liquidators. They may therefore engage the services of Messrs. Little & Co., Central Bank Building, Fort, Bombay who are the Solicitors of this Government. On hearing from them the papers may be sent to Messrs. Little & Co. for further action . A copy of the letter may be sent to Government of India for information .

o.c. Sd/- 22/6

for Remembrancer of Legal Affairs.

U.R. to H.D. No 9987, dated the 23rd June 1951.

Mjr/22/6

4 Cs.

19m

Office of the R.L.A.

Attention of the Local Self Government and Public Health Department is invited to the opinion given by the R.L.A. in Ratnagiri Miscellaneous Application No. 15 of 1950- N.P. Nachvalkar versus the State of Bombay and others, wherein it was decided that the order of surcharge cannot be supported. As the order of surcharge cannot be supported in this case also, the appeal filled by Shri Kashinath Balkrishna, may be allowed and the order in dispute may be set aside. A copy of the opinion in Ratnagiri Miscellaneous Application No. 15 of 1950is sent herewith for ready reference.

Sd/-

O.C.

For Remembrancer of Legal Affairs.

U.R. to L.S.G. & P.H.D. No. 9982 dated the 23rd June 1950

Mjr/22/6

4 Cs.

Opinion recorded by R.L.A. in Ratnagiri Miscellaneous Application No. 15 of 1950.

In a similar case from Rander Municipality the R.L.A. has expressed the opinion that it would not be within the scope of the Auditor or Examiner to urge that the Municipality should have taken certain steps to strengthen their finances. In that case the Commissioner had sanctioned the proposal to enhance the rate of a particular tax. But there was considerable delay in imposing the tax. The Auditor sought to fasten the liability for the consequent loss on the Councillors who voted for the postponement of the consideration of the proposal from time to time. It was then held that such an objection was beyond the scope of Audit. In that case the recovery of the loss from the Councillors was waived. Similar action may be taken in the present case also.

Mjr/22/6

4Cs.

Office of the R.L.A.

The Director of Excise and Prohibition in paragraph 4 of his letter dated 19-8-1950 reports that the Bombay Abkari Act and other Excise Acts were made applicable to the Akalkot State from 15th September 1948, and the Excise shops etc. granted by the State were continued upto 30th September 1948. It is not clear whether the Excise licensees in the State were granted temporary licences under the Bombay Abkari Act, 1878. Before expressing an opinion on the question raised the Revenue Department is therefore requested to ascertain whether the Premier Distillery and Chemical Works was granted any such license and whether the Company was allowed to carry on its business under the agreement with the Akalkot Durbar after 30th September 1948 up to November 1948 irrespective of any licence.

The Revenue Department is also requested to obtain and forward for the perusal of the Remembrancer of Legal Affairs the file containing the correspondence with the Premier Distillery and Chemical Works.

Sd/- R.T.Katarki

O.C.

For Remembrancer of Legal Affairs.

U.R. to R.D. No. 16118 dated the 17th November 1950.

Mjr/22/6

4 Cs.